

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

STEPHEN H. SMALLWOOD, JR.)	
)	
Petitioner,)	
)	
vs.)	Case No. CIV-05-1415-F
)	
JOSEPH SCIBANA,)	
)	
Respondent.)	

ORDER


The Report and Recommendation of Magistrate Judge Robert E. Bacharach recommends that the court deny the respondent's motion to dismiss. (Report and Recommendation at doc. no. 25; motion to dismiss at doc. no. 12.) Respondent has objected to the Report and Recommendation. (Objection at doc. no. 27.)

The court reviews all objected to matters *de novo*. Having conducted that review, and having carefully considered the Report and Recommendation, the parties' submissions, the pleadings, and the relevant arguments and authorities, the court finds that it agrees with the Report and Recommendation of the Magistrate Judge. It further finds that nothing would be gained from setting out any additional analysis here.

Accordingly, the court **ACCEPTS, AFFIRMS, and ADOPTS** the Report and Recommendation of Magistrate Judge Bacharach in this matter, and respondent's

motion to dismiss is hereby **DENIED**. This action is referred back to the Magistrate Judge for all proceedings, consistent with the original referral in this action.

Dated this 21st day of March, 2006.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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